



July 26, 2013

TO: Mayor and Members of Council  
FROM: Denise Turner Roth, City Manager <sup>FW</sup>  
SUBJECT: Items for Your Information

UPCOMING MEETINGS

- August 5 at 5:30 pm City Council Meeting
- August 6 at 6:00 pm National Night Out
- August 15 at Noon Council Work Session

**Council Candidate Web Page**

Non-incumbent City Council candidate requests are now posted online at:

[www.greensboro-nc.gov/2013elections](http://www.greensboro-nc.gov/2013elections). All requests that have been filed since July 22 are available, as well as any responses that have been provided. The City will continue to compile this information online on a weekly basis.

**High Point Road-Lee Street Renaming**

Attached is a memorandum from Planning and Community Development Director Sue Schwartz, dated July 25, 2013, providing the schedule of five public meeting regarding the renaming of High Point Road.

**Utilities Vegetation Management Complaint**

Attached is a memorandum from City Attorney Mujeeb Shah-Khan, Chief Deputy City Attorney Becky Jo Peterson-Buie and Associate General Counsel Brian Leonard, dated July 26, 2013, regarding the Utility Vegetation Management Ordinance and Resolution requirements.

**General Assembly Update**

Attached is an update on the activity in the General Assembly from Assistant General Counsel Tom Carruthers.

**Public Information Request Report**

Attached is the weekly Public Information Request Report for the week of July 25, 2013.

**Contact Center Feedback**

Attached is the weekly report generated by our Contact Center for the week of July 15, 2013 through July 21, 2013.

**Small Group Meetings**

Attached is the Small Group Meeting report for the week of July 22, 2013 through July 26, 2013, there between City Staff and [more than two but less than five] Councilmembers.

DTR/mm  
Attachments



July 25, 2013

**TO:** Jim Westmoreland, PE Deputy City Manager

**FROM:** Sue Schwartz, FAICP Director

**SUBJECT:** High Point Road-Lee Street Renaming Public Meetings

**Background**

High Point Road and Lee Street serve as important gateways into Greensboro, connecting residents and visitors to a wide range of destinations in the community. At the May 21, 2013 meeting City Council directed PCD Staff to initiate a public review of the proposal to rename High Point Road and Lee Street to Gate City Boulevard.

**Public Input Sessions**

A series of five public meetings have been scheduled to gather feedback on the road renaming proposal. Participants will be invited to provide feedback on the feasibility, timing and phasing of the road name change and alternative road names.

Location	Date	Time
Barber Park, Simkins Indoor Pavilion 1500 Dans Road	August 20	5:30 - 7:30 pm
Windsor Recreation Center 1601 East Lee Street	August 21	9:00 - 11:00 am
Koury Convention Center Auditorium, Entrance F 3121 High Point Road	August 22	9:00 - 11:00 am
Guilford Technical Community College Medlin Campus Center, Room CC041 601 High Point Road, Jamestown	August 22	5:30 - 7:30 pm
Greensboro Coliseum Special Event Center, Room 2 1921 West Lee Street	August 27	9:00 - 11:00 am

The attached information flyer will be mailed to the nearly 600 impacted properties along the corridor. Following these sessions, City Council will be provided with a summary of public comments and feedback.

Interested parties may get more information or submit comments through the proposal online at:  
[www.greensboro-nc.gov/hplee](http://www.greensboro-nc.gov/hplee).

SS/jc  
Attachments

# High Point Road – Lee Street Renaming

## Background

High Point Road and Lee Street serve as key gateways into Greensboro from points to the east, west and south. Stretching 19 miles, the High Point Road – Lee Street Corridor begins as East Lee Street at the intersection of Young's Mill Road in eastern Guilford County and stretches through Greensboro, into Guilford County and Jamestown before ending in High Point at US 311. A portion of High Point Road is being widened and realigned by the North Carolina Department of Transportation.

In May 2013, the Greensboro City Council directed staff to initiate public review of a proposal to rename both High Point Road and Lee Street to Gate City Boulevard.

## Why Rename the Road?

Discussions of renaming the corridor began in 2008 when the High Point Road/West Lee Street Corridor Plan was adopted. City Council has identified a number of reasons for renaming the road, including:

- Improve navigation along the corridor;
- Rebrand the corridor;
- Create a sense of community pride;
- Demonstrate unity and cooperation among jurisdictions; and
- Promote new investment in the corridor.

## The Process

The City's Land Development Ordinance requires street name changes be processed in accordance with the City's Street Naming and Addressing Manual, which requires two public hearings on any proposed road name change.

The Greensboro Planning Board will conduct the first public hearing to make a recommendation to City Council. City Council will then hold a second public hearing before making a final decision on the road renaming. All affected property owners will be notified of the time, date and location of these public hearings.

## Timeline

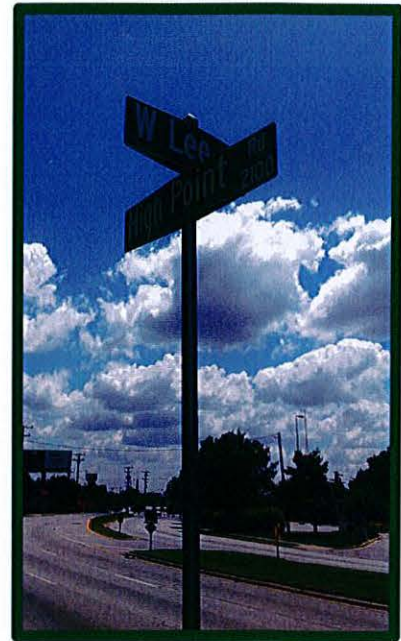
The following dates represent the key steps in the road renaming process.

August 20-27, 2013	Public Input Sessions (see schedule)
September 17, 2013	Update to City Council
October 16, 2013	Tentative Planning Board Public Hearing
November 12, 2013	Tentative City Council Public Hearing

## For More Information, Contact:

Steve Galanti, AICP  
Current Planning & Compliance Manager  
Phone: 336-373-2918  
E-mail: [steve.galanti@greensboro-nc.gov](mailto:steve.galanti@greensboro-nc.gov)

Hanna Cockburn, AICP  
Long Range & Strategic Planning Manager  
Phone: 336-574-3576  
E-mail: [johanna.cockburn@greensboro-nc.gov](mailto:johanna.cockburn@greensboro-nc.gov)



**City of Greensboro**  
North Carolina

*Planning & Community Development*

## Road Renaming Quick Facts

**Proposed Name**  
Gate City Boulevard

**Corridor Length**  
19 miles

**Impacted Jurisdictions**  
4

<b>Impacted Properties</b>	
In Greensboro	413
In High Point	24
In Jamestown	6
Unincorporated	152

*Promoting quality growth throughout Greensboro*



## Provide Your Input

Five sessions have been scheduled to gather feedback on the proposed name change.

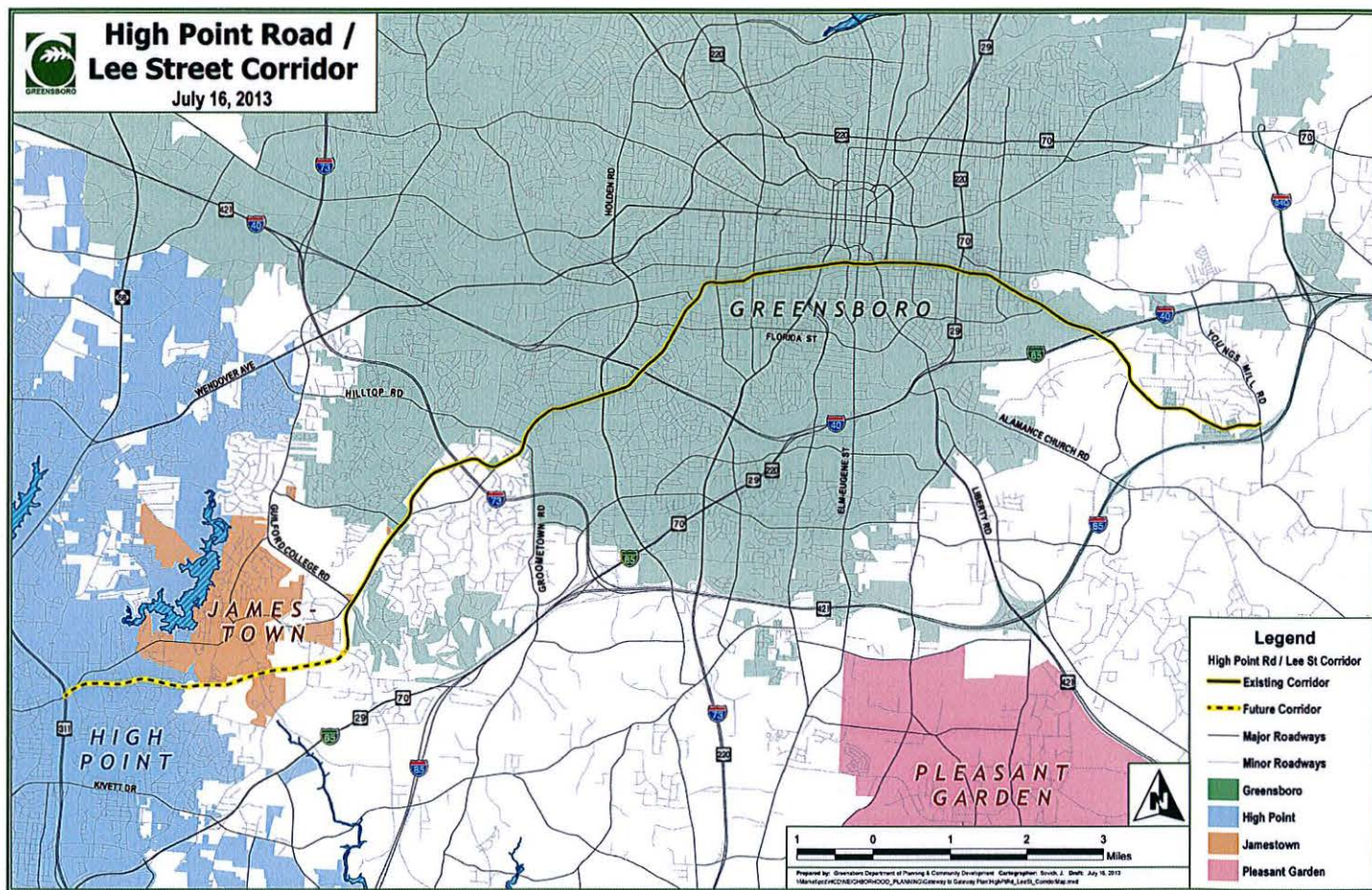
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Greensboro Coliseum Special Event Center, Room 2 1921 West Lee Street	August 27	9:00 – 11:00 am

Interested property owners, residents, and business owners are invited to participate in these forums. During each session, participants will have the opportunity to provide feedback on:

- Feasibility
- Timing of the name change
- Phasing the name change over time
- Alternative road names
- Alternatives to changing the official road name

Following the public input sessions, the City Council will be provided with a summary of public comments and feedback. Comments can also be submitted on-line from the City of Greensboro website: [www.greensboro-nc.gov/hplee](http://www.greensboro-nc.gov/hplee).

July 16, 2013



Office of the City Attorney  
City of Greensboro



July 26, 2013

**TO:** Mayor and Members of Council

**FROM:** S. Mujeeb Shah-Khan, City Attorney  
Becky Jo Peterson-Buie, Chief Deputy City Attorney  
Brian K. Leonard, Associate General Counsel

**SUBJECT:** City of Greensboro's Utility Vegetation Management Related  
Complaint with the North Carolina Utilities Commission

The Utility Vegetation Management Ordinance and Resolution adopted by the City Council on June 18, 2013, called for the City and Duke Energy to request that the North Carolina Utilities Commission ("Commission") rule upon the following areas with regard to the City's ordinance: **(1) Large Debris Removal, (2) the inclusion of a local-focused Appeals Process, (3) the application of specific Trimming Standards, and (4) the use of a Trimming Cycle.**

Today, the City Attorney's Office mailed the enclosed Complaint for filing with the Commission. The City is requesting expedited consideration of the four areas included in the Resolution. We would note that consistent with the working relationship between the City and Duke Energy on these issues, Duke Energy's legal counsel was provided with a courtesy copy of the Complaint prior to its filing with the Commission.

According to the Commission's rules, the next step in this process is that Duke Energy will be formally served with a copy of the Complaint by the Commission together with an order directing that Duke Energy either satisfy the matters complained of, or file an answer to the complaint within ten (10) days after being served.

We will continue to keep you updated on developments in the case. Otherwise, if you have any questions, please contact us at your convenience.

SMS/BPB/BKL  
Enclosure

cc: Denise Turner Roth, City Manager (w/enc.)  
Jim Westmoreland, Deputy City Manager (w/enc.)  
Butch Simmons, Engineering and Inspections Director (w/enc.)  
Sue Schwartz, Planning and Community Development Director (w/enc.)  
Michael Cusimano, Urban Forester (w/enc.)

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. E\_\_\_\_, SUB \_\_\_\_

In the Matter of	)	
	)	
The City of Greensboro, a North Carolina	)	
Municipal Corporation,	)	
	)	
Complainant,	)	
	)	
v.	)	VERIFIED COMPLAINT
	)	
Duke Energy Carolinas, LLC,	)	
	)	
Respondent.	)	

City of Greensboro ("City"), complaining of the Respondent, Duke Energy Carolinas, LLC (Duke Energy), alleges and says:

**PARTIES**

1. The City is a municipal corporation, duly organized and existing under the laws of the State of North Carolina, located in the County of Guilford. The City's business address is P.O. Box 3136, Greensboro, NC 27402-3136.

2. Duke Energy is a public utility providing electric service to customers in North Carolina and is regulated by the North Carolina Utilities Commission. Duke Energy's business address is P.O. Box 1006, Charlotte, NC 28201-1006.

**JURISDICTION**

3. The North Carolina Utilities Commission has jurisdiction to hear this complaint under North Carolina General Statutes § 62-73.

## **BACKGROUND**

4. The City brings this complaint on behalf of the City organization and at the behest of residents of Greensboro. The City and its residents are Duke Energy customers.

5. Greensboro, North Carolina has a beautiful tree canopy on public and private property. In December, 2012 many private property owners in Greensboro complained to the City about Duke Energy's pruning and tree removal in the City.

6. The City wrote Duke Energy on December 14, 2012 to request that the company suspend power line maintenance activities to allow time for the City, Duke Energy, and the community to reexamine and better understand the company's line maintenance processes and procedures. A copy of the letter is attached hereto and incorporated herein by reference as Exhibit A.

7. Duke Energy chose to not comply with the City's request in its December 14, 2012 letter. On December 19, 2012, following a vote of the Greensboro City Council to direct that the City Attorney pursue requiring Duke Energy to cease its pruning and tree removal activities, the Greensboro City Attorney wrote Duke Energy requesting the company to cease and desist pruning and tree removal activities in Greensboro to give all parties in interest time to reach a resolution. Duke Energy agreed to temporarily cease its pruning and tree removal activities. A copy of the letter is attached hereto and incorporated herein by reference as Exhibit B.

8. Duke Energy's initial response to the City was its tree trimming activities in Greensboro are in accordance with its Vegetation Management Plan on file with the North Carolina Utilities Commission ("NCUC").



9. As a result of the concerns raised by citizens, the City began meetings with Duke Energy representatives to try to reach a compromise on how tree trimming and removal should take place within the City of Greensboro.

10. The City convened a work team of citizens, City personnel, and representatives of Duke Energy to begin examining the issue.

11. The Mayor of the City created the Tree Ordinance Review Committee ("TORC"), an ad hoc committee of the City Council, to take the input of the community, work team, City staff and the City Council into consideration for the possible consideration of a new tree ordinance to deal with utility vegetation management issues.

12. After months of work by the TORC, the TORC recommended a new Utility Vegetation Management Ordinance ("Ordinance") that was considered and adopted by the Greensboro City Council on June 18, 2013. A copy of the ordinance is attached hereto and incorporated herein by reference as Exhibit C.

13. The new Ordinance resolved many issues between the City and Duke Energy. The City and Duke Energy did not reach agreement on the following four areas:

"A. Large Debris Removal-The City of Greensboro requests Duke Energy be responsible for the complete removal of all large wood on private property when requested by the property owner;

B. Appeals Process-The City of Greensboro requests the incorporation of a local appeals element prior to the appeal being sent to or heard by the NCUC, specifically, the City of Greensboro requests an appeals process that:

1. Begins with the City's Urban Forester,

2. Any decision of the Urban Forester may be appealed to the City's Advisory Commission on Trees ("ACT"); and

3. The decision of the ACT may be appealed either to Guilford County Superior Court or the NCUC.

C. Trimming Standards-The City of Greensboro requests that Duke Energy apply its new Urban Vegetative Management Trimming Standard across the entire City limits and not just locations with old design (typically 4 kV and 12 k V) distribution lines; and

D. Trimming Cycle-The City of Greensboro requests Duke Energy to maintain a 4-5 year trimming cycle on all circuits in Greensboro to mitigate trimming impacts."

14. The City and Duke Energy agreed it would present its dispute over the aforementioned four areas to the NCUC, and a Resolution approving the agreement was considered and adopted by the Greensboro City Council on June 18, 2013. A copy of the Resolution is attached hereto and incorporated herein by reference as Exhibit D.

15. The four areas that Duke Energy has not agreed to do will not negatively impact Duke Energy's ability to provide safe, reliable, and affordable service for the following reasons:

A. Large tree removal associated with routine maintenance, in a maintained area, is reasonable because it is only required if requested by a property owner; Duke Energy can receive payment for the wood; the City of Greensboro can and does make special arrangements to remove trimming debris; and the City is not asking

that large tree removal be required when the debris is caused by storms and other natural occurrences such as tree failures;

B. The incorporation of a local appeals process will not be burdensome to Duke Energy. It simply gives customers the opportunity to take their vegetation management concerns directly to a municipal government official;

C. Tree trimming standards that are applied across the entire City limits is reasonable and will promote safe and reliable service and tree health. Duke Energy is not in compliance with ANSI A300 standards when trimming trees because their trim cycle is too long which results in trees being trimmed in excess of twenty- five percent of a tree's crown. The trimming of trees that does not comply with the ANSI A300 standards does not protect the health of the trees and does not reduce undesirable re-growth patterns. The City is aware of pictures depicting trees that have been topped. Excessive pruning and trimming would not be necessary if tree trimming is applied across the entire City on a regular schedule that is reasonable, absent an emergency, in the interest of safety, or in the interest of preserving the life of the trees, etc.

D. The trimming cycle requested by the City is reasonable. Duke Energy agreed on page 49 of their current Vegetative Management Plan, relative to Old Design Urban Circuits, to adhere to a trimming cycle of 5 years.

16. The four areas that are the subject of disagreement between the City and Duke Energy will not prohibit or hinder Duke Energy's responsibility to provide safe, reliable and efficient service. The four areas are consistent with the Declaration of Policy

found in North Carolina General Statutes § 62-2(5) “to encourage and promote harmony between public utilities, their users and the environment”.

17. The four areas recommended by the City should reduce outages and improve the safety and reliability of the electric service Duke Energy provides.

### **IMPACTS ON CITIZENS OF GREENSBORO**

18. Citizens that reside in the Westerwood Neighborhood are customers of Duke Energy. These citizens have requested that the City bring the disagreement between the City and Duke Energy to the North Carolina Utilities Commission for resolution. A copy of the comments and questions from the Westerwood Neighborhood Association, Inc. is attached hereto and incorporated herein by reference as Exhibit E.

19. The Sierra Club requested that the City bring the disagreement between the City and Duke Energy to the North Carolina Utilities Commission for resolution. A copy of the position statement made by the Sierra Club is attached hereto and incorporated herein by reference as Exhibit F.

20. The T. Gilbert Pearson Audubon Society requested that the City bring the disagreement between the City and Duke Energy to the North Carolina Utilities Commission for resolution. A copy of the comments from the T. Gilbert Pearson Audubon Society is attached hereto and incorporated herein by reference as Exhibit G.

21. As shown above, the City and its citizens do not dispute that Duke Energy has the right to conduct power line maintenance, including the trimming of trees. The four areas recommended by the City will not negatively impact Duke Energy’s ability to provide safe, reliable and efficient electric service. Rather, the four areas will directly



and positively affect the health and well-being, use and enjoyment of the property and property values of citizens of Greensboro, and result in practices that protect the health of the trees and reduce undesirable re-growth patterns.

### **PRAYER FOR RELIEF**

WHEREFORE, the City prays that the North Carolina Utilities Commission:

1. Schedule a hearing to determine if an investigation into Duke Energy's tree trimming and removal practices in Greensboro, NC at a minimum, and statewide if possible, is warranted;
2. Require Duke Energy to amend its Vegetation Management Policies and Practices to be responsible for the complete removal of all large wood on private property when requested by the property owner; to incorporate a local appeals element prior to an appeal being sent to or heard by the North Carolina Utilities Commission; provide its new Urban Vegetative Management Trimming Standard across the entire City limits and not just locations with old design (typically 4 kV and 12 k V) distribution lines; and maintain a 4 to 5 year trimming cycle on all circuits in Greensboro to mitigate trimming impacts;
3. Grant such other and further relief as the Commission may deem just and proper;
4. Issue an order scheduling expedited review and consideration of this Complaint.

Respectfully submitted this the 26<sup>th</sup> day of July, 2012.

OFFICE OF THE CITY ATTORNEY

By: \_\_\_\_\_  
Becky Jo Peterson-Buie  
N.C. State Bar No. 12206  
Chief Deputy City Attorney  
Attorney for Complainant  
City of Greensboro  
P.O. Box 3136  
Greensboro, NC 27402-3136  
Telephone: (336) 373-2320  
[becky.petersonbuie@greensboro-nc.gov](mailto:becky.petersonbuie@greensboro-nc.gov)

By: \_\_\_\_\_  
Brian Leonard  
N.C. State Bar No. 38308  
Assistant City Attorney  
Attorney for Complainant  
City of Greensboro  
P.O. Box 3136  
Greensboro, NC 27402-3136  
Telephone: (336) 373-2320  
[brian.leonard@greensboro-nc.gov](mailto:brian.leonard@greensboro-nc.gov)

**VERIFICATION**

I, Sue Schwartz, Planning & Community Development Director for the City of Greensboro, verify that the contents of the COMPLAINT are true to the best of my knowledge, except as to those matters and things therein stated on information and belief, and as to those matters, I believe them to be true, and I am authorized to sign this verification on behalf of the City of Greensboro.

\_\_\_\_\_  
SUE SCHWARTZ

Sworn to and subscribed before me this

the \_\_\_\_\_ day of July, 2013.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**EXHIBIT A**



Office of the Mayor  
City of Greensboro



December 14, 2012

Mr. Davis Montgomery, District Manager  
Duke Energy Carolina  
PO Box 21666  
Greensboro, NC 27420

Re: Request of Suspending of Power Line Maintenance Activities in Greensboro

Dear Mr. Montgomery:

Based on the level of anger and disappointment expressed by Greensboro residents at the Westerwood Neighborhood Association meeting on December 13, and concerns expressed by the Sunset Hills and the Old Asheboro Neighborhoods, this letter is to respectfully request that Duke Energy suspend all line maintenance activities in the City of Greensboro for next three (3) months.

This suspension is needed to provide time for Duke Energy, the City of Greensboro, and the community to reexamine and better understand Duke Energy's current line maintenance processes and procedures. This time allows us to identify ways to better collaborate and coordinate the execution of this important and needed work. Most importantly, this suspension provides the community with an opportunity to regroup and reset from the current stress and pressure of Duke Energy's aggressive stance to push this operation forward, without properly or fully considering or respecting, the stated desires and needs of Greensboro's residents.

Thank you and Duke Energy in advance for your consideration. Your immediate and timely response is requested.

Sincerely,

Robert V. Perkins  
Mayor

Zack Matheny  
Council Member, District 3

T. Dianne Bellamy-Small,  
Council Member, District 1

Nancy Hoffmann  
Council Member, District 4

cc: Yvonne Johnson, Mayor Pro Tem  
Nancy Vaughan, Council Member, At Large  
Marikay Abuzuaiter, Council Member, At Large  
Jim Kee, Council Member, District 2  
Tony Wilkins, Council Member, District 5  
Brett C. Carter, NC State President, Duke Energy  
Jeffrey A. Corbett, Senior Vice President, Carolinas Delivery Operations, Duke Energy  
Stuart Hoyt, Vegetation Management Manager, Duke Energy  
Denise Turner Roth, City Manager  
Jim Westmoreland, Deputy City Manager

**EXHIBIT B**

December 19, 2012

***VIA FIRST CLASS MAIL, FACSIMILE, AND EMAIL***

Mr. Davis Montgomery, District Manager  
Duke Energy Carolina  
PO Box 21666  
Greensboro, NC 27420

**RE: Cease and Desist Pruning and Tree Removal Activities in Greensboro**

Dear Mr. Montgomery:

Pursuant to Section 7 of the Franchise Agreement entered into by Duke Power (hereinafter, "Duke"), and the City of Greensboro (hereinafter, "City"), the Greensboro City Council, at its December 18, 2012 meeting, directed the City Attorney to advise Duke to suspend all pruning and tree removal in the City by 5:00 p.m., Thursday, December 20, 2012. This action is necessitated by Duke's refusal to comply with the City's reasonable requests contained in our December 14, 2012 letter to Mr. Davis Montgomery.

It is our expectation that Duke's suspension of these activities will allow time for all parties in interest to reach a mutually beneficial resolution of the grave concerns brought to Council's attention at its December 18 meeting. Most importantly, this suspension provides the community with an opportunity to regroup and reset from the current stress and pressure of Duke Energy's aggressive stance to push this operation forward, without properly or fully considering or respecting, the stated desires and needs of Greensboro's residents.

Thank you and Duke in advance for your consideration. Your immediate and timely response is requested.

Sincerely,

S. Mujeeb Shah-Khan  
City Attorney



**EXHIBIT C**

AMENDING CHAPTER 30 (LDO)  
AN ORDINANCE AMENDING THE GREENSBORO CODE OF ORDINANCES WITH  
RESPECT TO ZONING, PLANNING AND DEVELOPMENT

Section 1. That Article 12 of Chapter 30 (LDO) is hereby amended to add the following new sections:

**30-12-1.8     UTILITY VEGETATION MANAGEMENT**

**30-12-1.8.1     *PURPOSE AND INTENT***

- (a) The purpose of sections 30-12-1.8 through 30-12-1.14 of this Ordinance is to establish guidelines for the routine trimming, pruning, cutting and removal by utility companies of trees and vegetation (sometimes referred to herein as "vegetation maintenance" or "vegetation management") on public streets or rights-of-way, City-owned or controlled property, and private property within the City limits and to encourage the promotion of an urban tree canopy on property within the City limits by ensuring the following:
- a. That the Public safety is protected from any and all trees, limbs and shrubbery which threaten life and property.
  - b. That the integrity, structural or otherwise, of individual trees within the City's tree canopy is preserved and retained.
  - c. That the detrimental impact to individual trees within the City's tree canopy is kept to a minimum by virtue of vegetation maintenance activities in accordance with the most reasonable, environmentally safe, and approved International Society of Arborist (ISA) arboricultural practices under the circumstances.
  - d. That communication with respect to vegetation management is enhanced between utility companies, on one hand, and the City, communities and owners or residents of any occupied public or private property ("Occupied Property"), on the other hand.
  - e. That maintained or landscaped, occupied public or private property (referred to hereinafter as "Occupied Maintained Property") receive certain protections with respect to the removal of trees from those properties.
  - f. That the provision of safe and reliable overhead utility service is promoted.
  - g. That overhead utilities are protected while decreasing the potential for service interruptions.

### **30-12-1.8.2 DUTIES OF URBAN FORESTER**

For the purposes of carrying out the provisions of sections 30-12-1.8 through 30-12--1.14 of this Ordinance, the Urban Forester shall be the responsible party to oversee and coordinate utility vegetation management activities on all trees and vegetation growing within the City limits and the planting, removal, care, maintenance, and protection thereof. The Urban Forester shall advise on all City-initiated construction projects in an effort to plan for and manage the City's vegetative resources.

### **30-12-1.8.3 EXCEPTIONS**

Although it is anticipated that the bulk of utility vegetation maintenance that will occur within the City will be of a routine nature that is governed by the provisions of sections 30-12-1.8 through 30-12--1.14 of this Ordinance, there are certain limited types of vegetation maintenance, as set forth below, that are excepted from coverage under sections 30-12-1.8 through 30-12--1.14 of this Ordinance:

- (a) Although sections 30-12-1.8 through 30-12--1.14 of this Ordinance apply to overhead electrical distribution lines, said sections do not apply to nor prohibit vegetation management activities pertaining to: (i) electrical transmission lines, or (ii) underground electrical distribution lines. The term "transmission lines" as it is used herein means electric utility lines in the Duke Energy Carolinas' service territory energized at voltages 44,000 volts or greater and typically carried on steel poles or towers; however, some lower voltage transmission lines may be on wood pole structures.
- (b) Sections 30-12-1.8 through 30-12--1.14 of this Ordinance do not apply to nor prohibit vegetation management activities pertaining to non-routine vegetation management which includes, without limitation, customer requested work (such as construction projects where new service lines are requested or projects where lines need to be relocated or extended), maintenance of overhead facilities (such as changing out transformers, other pole-mounted equipment or damaged or rotten poles), North Carolina Department of Transportation related work, addressing public safety incidents, or restoring the utility service following emergencies or any other unanticipated interruption or outage.
- (c) Sections 30-12-1.8 through 30-12--1.14 of this Ordinance shall not apply to nor prohibit the vegetation maintenance of any tree or shrub on public or private property within the City limits, if such vegetation maintenance is done in order to repair or replace the same as a result of damage or deterioration as a result of accident, casualty, or natural elements such as wind, rain, ice, electrical storm, or the like.

#### **30-12-1.8.4    *LEGALITY OF CHAPTER OR PARTS THEREOF***

Should any section, clause or provision of sections 30-12-1.8 through 30-12--1.14 of this Ordinance be declared by the courts to be invalid, the same shall not affect the validity of any other provision of sections 30-12-1.8 through 30-12--1.14 of this Ordinance.

#### **30-12-1.8.5    *VIOLATIONS; STOP WORK ORDERS***

If a utility does not comply with sections 30-12-1.8 through 30-12--1.14 of this Ordinance, then the Urban Forester is authorized to issue a stop work order to the utility.

#### **30-12-1.9    VEGETATION MANAGEMENT PLANNING**

##### **30-12-1.9.1    *ANNUAL VEGETATION MANAGEMENT PLAN***

- (a) Each utility company shall submit an annual vegetative management plan to the Urban Forester of the City on or before January 1st of each year prior to the start of any overhead utility vegetation maintenance activities within the City limits or upon any City-owned or controlled property, which vegetative management plan shall: (i) depict the general areas involved in the maintenance plan, and (ii) set forth the maintenance schedule for vegetation line maintenance within the City's limits. If the vegetative management plan is timely submitted and the vegetative management plan sets forth the information required in this sub-section, then the vegetative management plan shall be accepted within 10 business days following the submission of it to the City.
- (b) If a utility company desires to amend its vegetative management plan at any time during the year, the utility company shall submit an amended annual vegetative management plan to the Urban Forester of the City, which amended vegetative management plan shall: (i) depict the general areas involved in the maintenance plan, and (ii) set forth the maintenance schedule for vegetation line maintenance within the City's limits. If the amended vegetative management plan sets forth the information required in this sub-section, then the amended vegetative management plan shall be accepted within 10 business days following the submission of it to the City.

##### **30-12-1.9.2    *OPERATIONAL PLAN***

- (a) If a utility desires to perform vegetation maintenance within the City limits or upon any City-owned or controlled property, then the utility company shall obtain the acceptance of an operational plan before commencing any such desired vegetation maintenance. After the submission of an annual vegetative management plan, each utility company shall submit an operational plan to the Urban Forester of the City depicting in specific detail the circuits, locations,

and timing involved in the line maintenance 60 days prior to commencement of work, unless a shorter period of time is mutually agreed upon by the City and the utility company. In connection with the submission of the operational plan to the Urban Forester of the City, it is required that there be a meeting between the utility company and the Urban Forester of the City for the purpose of reviewing the operational plan before it is accepted. If the operational plan is timely submitted, the aforementioned meeting occurs, and the operational plan sets forth specific detail required in this sub-section, then the operational plan shall be accepted within 10 business days following the submission of it to the City.

- (b) If a utility company desires to amend its operational plan at any time during the year, the utility company shall submit an amended operational plan to the Urban Forester of the City depicting in specific detail the circuits, locations, and timing involved in the line maintenance 60 days prior to commencement of work, unless a shorter period of time is mutually agreed upon by the City and the utility company. In connection with the submission of the amended operational plan to the Urban Forester of the City, it is required that there be a meeting between the utility company and the Urban Forester of the City for the purpose of reviewing the amended operational plan before it is accepted. If the amended operational plan is timely submitted, the aforementioned meeting occurs, and the amended operational plan sets forth specific detail required in this sub-section, then the amended operational plan shall be accepted within 10 business days following the submission of it to the City.

### **30-12-1.10 VEGETATION MANAGEMENT COMMUNICATION**

#### **30-12-1.10.1 *COMMUNICATION BETWEEN CITY AND UTILITIES***

Each utility company shall communicate with the City regarding vegetation maintenance as required herein in connection with the annual vegetative maintenance plan, the operational plan, and the vegetation maintenance annual review.

#### **30-12-1.10.2 *COMMUNICATION BETWEEN COMMUNITIES AND UTILITIES***

##### ***(a) Community Notification***

The utility company shall notify the Greensboro Neighborhood Congress or comparable organization as identified by City staff, at least 45 days prior to the date vegetation maintenance is to commence. Said notice shall also include information on how to request a community information session if desired. The Neighborhood Congress of the City or comparable organization shall notify an applicable community, neighborhood association or homeowner's association, if

any, to the extent one reasonably can be identified, which potentially might be impacted by the vegetation maintenance activity.

***(b) Community Information Session***

The utility company shall make reasonable efforts to hold and attend any requested community information session in a reasonable location that shall be made available through the assistance of the City. The community information session shall occur at least 30 days prior to the date vegetation maintenance activities are to commence unless the timing of the request reasonably requires a shorter time period. A community information session may consist of information stations staffed by subject matter experts, and citizens may address comments or questions to those representatives of the utility company who are attending the community information session.

**30-12-1.10.3 COMMUNICATION BETWEEN UTILITIES AND OWNERS OR RESIDENTS OF OCCUPIED PROPERTY**

***(a) Notification To Owners Or Residents Of Occupied Property***

Prior to the performance of vegetation maintenance by a utility on Occupied Property, the utility shall make reasonable efforts to provide prior notification of such activities to the owner or resident of Occupied Property. In addition to the posting of information on the City of Greensboro's official website if the City elects to post information, such prior notification may include, but is not limited to, either of the following methods: (i) door hangers; and (ii) automated outbound telephone calling. Such prior notification shall be attempted at least 7 business days prior to the date that the vegetation maintenance is scheduled to commence, unless circumstances reasonably require a shorter time period.

***(b) Meeting With Owners Or Residents Of Occupied Property***

If an owner or resident of Occupied Property requests a meeting with a utility regarding vegetation maintenance that is to occur on said property, then the utility shall make reasonable efforts to meet with the owner or resident of said property to discuss which trees will be impacted and which methods will be utilized by the utility in connection with the vegetation maintenance.

***(c) Provision of Authority***

If an owner or resident of Occupied Property so requests, a utility subject to the jurisdiction of the North Carolina Utilities Commission shall provide a copy of written authority to perform vegetation maintenance on the property.

Acceptable written authority may include, but not be limited to, pertinent service regulations on file with the North Carolina Utilities Commission.

**30-12-1.11 VEGETATION MANAGEMENT STANDARDS, REQUIREMENTS AND PROHIBITED PRACTICES**

**30-12-1.11.1 METHODS OF PRUNING, TRIMMING AND CUTTING;  
PROHIBITED PRACTICES**

- (a) To the extent the utility files a vegetative management plan with the North Carolina Utilities Commission, then the vegetative management plan, including the Old Design Urban Circuits, which was filed with the North Carolina Utilities Commission on April 30, 2013 as a supplement to its vegetative management plan, and any revisions to the vegetation management plan required by the North Carolina Utilities Commission shall constitute the standards to be adhered to by the utility when performing vegetation management activities within the City limits. The most recent utility vegetation management plan, including the Old Design Urban Circuits which was filed with the North Carolina Utilities Commission on April 30, 2013 as a supplement to its vegetative management plan filed with the North Carolina Utilities Commission, may be found by accessing the links below:

Utility's Vegetation Management Plan: <http://ncuc.commerce.state.nc.us/cgi-bin/webview/senddoc.pgm?dispfmt=&itype=Q&authorization=&parm2=CAAAA16221B&parm3=000138905>

Old Design Urban Circuits: <http://ncuc.commerce.state.nc.us/cgi-bin/webview/senddoc.pgm?dispfmt=&itype=Q&authorization=&parm2=LAAA12131B&parm3=000138905>

The utility shall provide the City of Greensboro's City Attorney with notice of any proposed revision to its vegetative management plan, including the Old Design Urban Circuits, which was filed with the NCUC on April 30, 2013 as a supplement to its vegetative management plan, that would impact its distribution system at the same time that it files such proposed revision with the North Carolina Utilities Commission.

- (b) Regardless of whether a utility files a vegetative management plan with the North Carolina Utilities Commission, a utility shall comply with the following in connection with any vegetation maintenance within the City limits:
- a. Vegetation maintenance shall be done using the "ANSI A300 method" (part 1) BMP manual compiled by the International Society of Arboriculture, and subsequent revisions.

- b. Topping and rounding over of trees is prohibited.
- c. Climbing irons, spurs, or spikes are not to be used unless in accordance with the ANSI A300 standard.
- d. The use of "tree paint", "wound dressing", and the like is not recommended.
- e. Under normal circumstances, no more than one-fourth (1/4) of a tree's crown shall be removed per year. If reduction of more than one-fourth (1/4) or twenty-five percent (25%) of a tree's crown is needed for safety and reliability clearances, or if the tree is otherwise a danger tree, the tree should be evaluated by the utility company for removal. The term danger tree, as it is used in sections 30-12-1.8 through 30-12-1.14 of this Ordinance, means a tree that has the potential of adversely impacting utility service by falling into a utility line as a result of being cut, blown into, or otherwise falling, by virtue of its physical condition.
- f. When virulent disease is prevalent, as per written notification of the Urban Forester, the Urban Forester will work with the utility to develop a reasonable plan to properly prune or remove the subject tree. This plan will be designed to prevent the spread of disease as a result of line clearance activities.
- g. For the removal of a limb the triple cut method shall be used if there is a possibility that the limb may tear out from the trunk if a single cut is made.
- h. Utility companies shall use natural pruning which requires all cuts to be made at laterals (limb junctions). These lateral limbs shall be no less than one-third (1/3) the diameter of the limb removed at the point of removal. The term lateral limb, as used herein, means a subordinate limb originating from a main branch or stem
- i. Limbs shall be pruned back to an appropriate new leader, heading away or around the lines. In no circumstances are stubs or abruptly pruned limbs to be left by the pruning. The term leader, as used herein, means a dominant upright stem which is usually the main trunk of a tree
- j. No obvious "hangers" shall be left in the trees after performing line clearance activities. The term hanger limb, as used herein, means a cut limb that is left in a tree after pruning operations are complete



**30-12-1.11.2 DETERMINATIONS BY UTILITY COMPANIES THAT A TREE IS TO BE REMOVED; APPEAL PROCESS**

- a. Nothing in this subsection shall be construed to preclude, prevent, or impair any property owner, resident, the City or utility from pursuing its legal remedies before the North Carolina Utilities Commission or from requesting the assistance of the Public Staff of the North Carolina Utilities Commission formally or informally at any time pursuant to the procedures set forth by those agencies.
- b. If a utility company determines that a tree must be removed in its entirety from Occupied Maintained Property within the City limits, then the utility company shall make reasonable efforts to seek the consent of the owner or resident of the Occupied Maintained Property. Reasonable efforts by a utility company to seek the consent of the owner or resident of the Occupied Maintained Property may include any of the following, without limitation: (i) a request for consent to remove a tree set forth on a door hanger; (ii) a request for consent to remove a tree made in a communication with said owner or resident; (iii) a request for consent to remove a tree set forth in a message left on the answering machine or voicemail of said owner or resident; (iv) a request for consent to remove a tree set forth in a letter served by mail to said owner or resident; (v) a request for consent to remove a tree made during a meeting with said owner or resident on the affected property; or (vi) a request for consent to remove a tree served by email to said owner or resident. If an owner or resident of Occupied Maintained Property expresses verbally or in writing to the utility company that said owner or resident does not consent to the tree removal intended by the utility company, then the utility company shall not remove the subject tree unless permitted to do so by the Urban Forester or the North Carolina Utilities Commission or through resolution of the matter through the involvement of the Consumer Services Division of the Public Staff of the North Carolina Utilities Commission, as provided for herein below.
- c. If: (i) an owner or resident of the Occupied Maintained Property expresses in writing or verbally that said owner or resident does not consent to removal of the tree desired to be removed by the utility company, or (ii) said owner or resident fails to express verbally or in writing a position with respect to consent within 5 business days of when the utility company first made its reasonable efforts to seek consent, unless a shorter time is reasonably necessary in light of the immediate danger and/or interference to the overhead utility lines posed by the subject tree; then, in either situation, the utility company may request that the Urban Forester issue a written determination as to whether a tree in dispute on public or private property shall be

removed, and the following shall govern the process and determination by the Urban Forester:

- a. The Urban Forester shall rule that the tree in dispute shall be removed if the Urban Forester determines that the tree is a danger tree as defined above in section 30-12-1.11.1(b)(e).
- b. The utility company shall serve a written request for determination to the Urban Forester (the "Written Request for Determination to the Urban Forester"), which Written Request for Determination to the Urban Forester may be a letter or email addressed to the Urban Forester, and which written request for determination shall include at least the following:
  - i. The address of the property where the tree in dispute is located;
  - ii. A reasonable identification of the tree in dispute;
  - iii. The approximate date that the utility company communicated to the owner or resident of the Occupied Maintained Property that the tree had been determined to be required to be removed;
  - iv. The approximate date that the owner or resident of the Occupied Maintained Property communicated that consent for removal was not being provided, if any such request was provided.
- c. Within 5 business days of the request by the utility company, unless a shorter time is reasonably necessary in light of the immediate danger and/or interference to the overhead utility lines posed by the subject tree, the Urban Forester shall conduct a meeting with the owner or resident of the Occupied Maintained Property and utility company at the property where the tree in dispute is located. The date and time of the meeting shall be determined by and communicated by the Urban Forester by telephone or by written notice served by mail, email or hand-delivery. At the meeting, the utility company may explain why the tree in dispute should be removed and the owner or the resident of the Occupied Maintained Property may explain why the tree should not be removed.
- d. Regardless of when a meeting is conducted or whether a meeting actually is conducted, the Urban Forester shall make a

written determination of whether the tree in dispute shall be removed within 5 business days of service of the initial Written Request for Determination to the Urban Forester (the "5 Day Deadline for the Urban Forester to Make a Determination").

- e. A written determination by the Urban Forester (the "Written Determination of the Urban Forester"), setting forth the basis for his decision, shall be served by mail, email or hand-delivery to the owner or resident of the Occupied Maintained Property and the utility company, and the Written Determination of the Urban Forester shall include at least the following:
  - i. The address of the property where the tree in dispute is located;
  - ii. A reasonable description of the tree in dispute;
  - iii. The names of the owner or resident of the Occupied Maintained Property and the utility company involved in the tree removal dispute;
  - iv. The date of the meeting at the property. If a meeting was not conducted, then the Urban Forester shall briefly explain why a meeting was not conducted.
  - v. A written statement that the tree in dispute shall or shall not be removed.
- f. If an owner or resident of the Occupied Maintained Property or a utility company desires to appeal the Written Determination of the Urban Forester, then the appealing party may file a formal complaint with the North Carolina Utilities Commission pursuant to G.S. §62-73 or G.S. §62-74. Complaints to the North Carolina Utilities Commission may be addressed to the Chief Clerk, North Carolina Utilities Commission, 4325 Mail Service Center, Raleigh, NC 27699-4325. Prior to filing a formal complaint with the North Carolina Utilities Commission, said party may request informal resolution of the issue through the involvement of the Consumer Services Division of the Public Staff of the North Carolina Utilities Commission. If said owner or resident appealing an adverse Written Determination of the Urban Forester does not file said formal complaint with the North Carolina Utilities Commission or, in the alternative, request

**EXHIBIT D**

**RESOLUTION CONCERNING UTILITY VEGETATION MANAGEMENT ORDINANCE**

WHEREAS, in December of 2012, Duke Energy conducted tree trimming and removal activities within the City of Greensboro, and the method and manner of those activities, while permitted by the Vegetation Management Plan filed by Duke Energy with the North Carolina Utilities Commission ("NCUC") raised concerns with Greensboro citizens and the City of Greensboro ("City");

WHEREAS, as a result of the concerns raised by citizens, the City began meetings with Duke Energy representatives to try to reach a compromise on how tree trimming and removal should take place within the City of Greensboro;

WHEREAS, the City convened a work team of citizens, City personnel, and representatives of Duke Energy to begin examining the issue;

WHEREAS, the Mayor of the City created the Tree Ordinance Review Committee ("TORC"), an *ad hoc* committee of the City Council, to take the input of the community, work team, City staff and the City Council into consideration for the possible consideration of a new tree ordinance to deal with utility vegetation management issues;

WHEREAS, following the work of the TORC, the TORC is able to recommend a new Utility Vegetation Management Ordinance for City Council approval;

WHEREAS, the new ordinance would help resolve issues between the City and utilities such as Duke Energy;

WHEREAS, the City and Duke Energy have agreed on major areas of the ordinance<sup>1</sup>, except for four areas that the City and Duke Energy have agreed will be presented to the NCUC<sup>2</sup> for its review and determination of whether or not City regulation of those four areas is preempted or otherwise invalid because of reasons that include, but are not limited to, the NCUC's authority over the safety, reliability, and establishment of rates associated with public utility service provided by regulated utilities such as Duke;

WHEREAS, the City and Duke Energy wish to confirm this agreement by resolution approved by the City Council and Duke Energy.

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<sup>1</sup> Although Duke Energy has always maintained its position that regulation of vegetation maintenance of its electrical lines and facilities is subject to preemption and other legal defenses, Duke Energy has engaged in a process of identifying ordinance provisions that it could abide by notwithstanding the doctrine of preemption and other legal defenses.

<sup>2</sup> To the extent any challenge to the validity of any proposed or enacted ordinance provision relating to the four areas of disagreement should be presented to a court of competent jurisdiction because of the NCUC's lack of jurisdiction, Duke Energy and the City of Greensboro each reserves the right to challenge the validity of such before a court of competent jurisdiction.

NOW, THEREFORE, BE IT RESOLVED BY THE GREENSBORO CITY COUNCIL AS FOLLOWS:

1. The Greensboro City Council will enact a Utility Vegetation Management Ordinance that is attached to this resolution as Exhibit A. In addition, Duke Energy has agreed to file and implement a new Urban Vegetative Management Trimming Standard with the NCUC to govern their trimming practices of certain old design (typically 4 kV and 12 kV) distribution lines.
2. To promote efficient resolution of outstanding questions, the City of Greensboro and Duke Energy will request the NCUC to review the proposed regulations that are the subject of their disagreement and determine whether or not the City's proposed regulation of those four areas is preempted or otherwise invalid.<sup>3</sup> These proposed regulations cover four areas:

**A. Large Debris Removal** - The City of Greensboro requests Duke Energy be responsible for the complete removal of all large wood on private property when requested by the property owner;

**B. Appeals Process** - The City of Greensboro requests the incorporation of a local appeals element prior to the appeal being sent to or heard by the NCUC, specifically, the City of Greensboro requests an appeals process that:

1. Begins with the City's Urban Forester,
2. Any decision of the Urban Forester may be appealed to the City's Advisory Commission on Trees ("ACT"); and
3. The decision of the ACT may be appealed either to Guilford County Superior Court or the NCUC;

**C. Trimming Standards** - The City of Greensboro requests that Duke Energy apply its new Urban Vegetative Management Trimming Standard across the entire City limits and not just locations with old design (typically 4 kV and 12 kV) distribution lines; and

**D. Trimming Cycle** - The City of Greensboro requests Duke Energy to maintain a 4-5 year trimming cycle on all circuits in Greensboro to mitigate trimming impacts.

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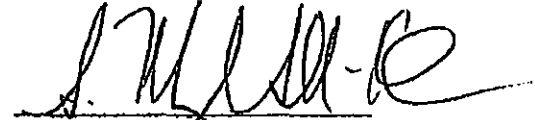
<sup>3</sup> It is further acknowledged that, to the extent that the City of Greensboro enacts a utility vegetation maintenance ordinance that differs in substance than that which is attached hereto as Exhibit A and/or attempts to modify it by attempting to enact or by enacting provisions beyond or outside of the four areas of disagreement, Duke Energy reserves the right to challenge the validity and enforceability of said Ordinance in whole or in part.

The City and Duke Energy will request expedited consideration of those areas. The City of Greensboro and Duke Energy understand that this Resolution in and of itself does not create any binding obligation to comply with any standards or requirements desired by the City of Greensboro relating to the four areas of disagreement prior to any rulings with respect to same.

THE FOREGOING RESOLUTION WAS ADOPTED  
BY THE CITY COUNCIL OF THE CITY OF GREENSBORO  
ON THE 18th DAY OF JUNE, 2013.

  
CITY CLERK

APPROVED AS TO FORM

  
CITY ATTORNEY

## EXHIBIT E





## Westerwood Neighborhood Association, Inc.

[www.WesterwoodNeighborhood.com](http://www.WesterwoodNeighborhood.com)

### Board of Directors

Jeff Nimmer  
President

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Vice-President

Emilie Sandin  
Secretary

Kay Swofford  
Treasurer

Bill Menius

Barbara Burnside

Gail Barger

Bonnie Lawrence

Marsh Prause

Carlos Morales

### Comments and Questions from the WNA Board concerning the:

#### Duke Energy's Old Design Urban plan:

The WNA Board of Directors supports using the Old Design Urban plan citywide. As it is currently configured, what neighborhoods are included? Are there neighborhoods with 4 kV and 12 kV distribution lines not included? If so, why? Westerwood is not shown as one of the Old Design OH Circuits on the map. (Is 4kV a description of a secondary distribution line and 12kV a description of a primary distribution line?)

WNA wants it known that we would prefer a smaller pruning box.

Under "General Specification for Old Design Urban Circuits", in the second, third, and fourth "Special Notes": New Pruning standards of 15' overhanging and 10' side clearance: If limbs are healthy and of a strong/hard wood, will Duke Energy crews leave limbs within the 15' and 10' pruning box? Their "Multi-Phase Illustration", pg. 4, shows that to be the case.

Under "General Specification for Old Design Urban Circuits", in the fifth "Special Notes": Only 6 slow growing species are listed. What is the full list of species that will have a 7.5' side clearance?

#### Draft Utility Vegetation Management Ordinance:

There is no Definition section and one is needed. This needs to include the meaning of:

Primary/Secondary Distribution lines vs. Transmission lines (including the voltage information); Multi-Phase lines; Danger/Hazard trees; Lateral Limb (with diagram); Leader; Hanger; Incipient growth; Manageable length; TGR...

The Old Design Urban Plan has not been written into the ordinance and needs to be incorporated into the ordinance.

Under 30-12-1.8.3 "Exceptions":

(b) There should be no exception for "customer requested work".

(c ) Substitute "any danger or hazard tree" for "any tree".



# Westerwood Neighborhood Association, Inc.

[www.WesterwoodNeighborhood.com](http://www.WesterwoodNeighborhood.com)

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### Under 30-12-1.9.2 "Operational Plan"

(a) Delete "unless a shorter period of time is mutually agreed upon by the City and the utility company." There should be no shorter time than 60 days.

### Under 30-12-1.10.2 "Communication Between Communities And Utilities":

Under (a) Community Notification: Included in any of the following forms of communication is "iii the posting of information on the City of Greensboro's official website". This is not good enough for "No Surprises" communication. It needs to be a physical notification like the door hangers or automated outbound telephone calling. Change iii to either "email to owner and resident" or "letter to owner". The letter is preferable.

Under (b) Community Information Sessions: The community information session needs to include disclosure about which trees will be impacted and which methods will be used. Neighborhoods need to be told why they do or do not qualify to be part of the Old Design Urban Plan.

### Under 30-12-1.10.3 "Communication Between Utilities and Owners or Residents of Occupied Property":

(a) Again, "iii the posting of information on the City of Greensboro's official website" is not good enough to reach people. Change iii to either "email to owner and resident" or "Letter to owner".

(c) Change heading to "Provision of Claimed Authority"

### Under 30-12-1.11.1 Methods of Pruning...":

Under (a) Any "revisions to the vegetation management plan required by the North Carolina Utilities Commission" also needs to be given at the same time to the city.

Under (b) e. Delete "by virtue of its physical condition" from the description of a danger tree.

### Under 30-12-1.11.2 "...Appeal Process":

*Shouldn't the main points be in parentheses? And you've got two "c" sections which means each subsequent section needs to be re-done.*

(b) "the utility company shall...seek the consent of the owner or resident"... A college student renting the house might give an OK to a



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3

tree removal when the owner would not do so. The owner of the house needs to be the decision-maker, verbally or in writing. Remove "or resident" from (b), what is now (c#1), (c#2), (e), (f), (h), (j). A tenant is not an agent for the owner.

#### Under 30-12-1.11.2

(c) "A written determination by the Urban Forester":  
There is no reason given for the ruling. That should be part of the v. section.

#### Under 30-12-1.12 "Supervision and Oversight of Contractors":

A certified arborist should be on each crew instead of just being "involved in the oversight of the crews".

#### Under 30-12-1.13.1 "Vegetation Management Clean-up":

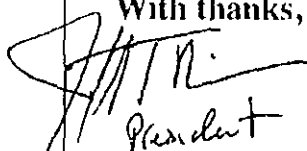
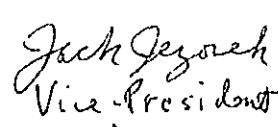
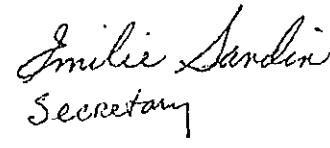
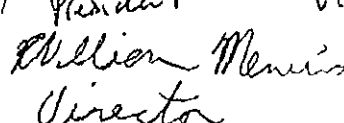
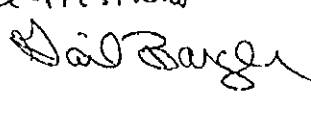
(c) a. define "manageable" lengths (very different for older citizens than for a 20 year old). And the wood should be stacked neatly at the curb unless the owner requests that the wood be left at the base of the tree.

Four Resolutions: The Four Resolutions that the city has asked NC Utilities Commission to resolve should be available for public review.

Given that the draft ordinance is not ready for approval by City Council, the WNA Board requests a two week delay from the scheduled May 21 Council consideration of the ordinance so corrections and additions can be made to the Utility Vegetation Management Ordinance.

In closing, we want to express deep appreciation to Council members Nancy Vaughan, Nancy Hoffmann, Marikay Abuzuaiter, and Yvonne Johnson for their hard work on this ordinance.

With thanks,

 President  
 Vice-President  
 Secretary  
 Director  


**EXHIBIT F**

## Sierra Club Position Statement on Draft Utility Vegetation Ordinance

May 9, 2013

The Sierra Club appreciates the effort that the City Council Subcommittee and City staff have invested in crafting an improved tree ordinance. Nevertheless, after careful examination, we do not think the draft ordinance is adequate. We urge the City Council to pass instead a strong ordinance that treats citizens in all parts of the City equally and provides longer notification periods and stronger appeal rights. We outline below our major objections to the current draft.

The ordinance recommended by the City Council Subcommittee does not directly regulate the size of the "pruning box" used by Duke Energy or the frequency of tree trimming. Instead, it focuses almost entirely on notification, appeal, and cleanup issues. The ordinance does require Duke to follow a revised "Vegetation Management Plan" that the utility has voluntarily agreed to file with the State Utilities Commission. However, this revised "Vegetation Management Plan" applies only to a relatively small portion of the city, leaving Duke potentially free to follow its old standards--the very standards that proved so destructive last winter--in the rest of town. **Allowing Duke Energy to decide in which parts of town it will improve its procedures is unfair to the majority of citizens, whose trees will not be covered by the strengthened standards.** In addition, the ordinance does not prohibit Duke from filing an alternative Vegetation Management Plan with the Commission in the future.

The City plans to ask the State Utilities Commission whether it believes the City can impose Duke's stricter requirements citywide. It is not clear, however, that the Commission's opinions, as opposed to court rulings, would be the final word on this. Moreover, whether the City will, in fact, pass a stricter ordinance in the future remains uncertain. This amounts to just kicking the can down the road and is a far cry from earlier statements from several members of the Council Subcommittee that Greensboro should immediately pass an ordinance like Raleigh's--an ordinance that contains direct, citywide requirements about the size of the pruning box and frequency of cutting--and apply them to both City-owned and private property.

Some of the notification requirements to private property owners are very weak. The utility can meet the requirement to notify neighborhood associations of upcoming pruning by simply posting the information on the City of Greensboro's web site. The requirement to notify property owners of upcoming work on their property can evidently be met in the same way. Even if Duke chooses to use door hangers to meet the notification requirement, they must be distributed only seven days in advance, even in cases where the property is a rental. Property owners also have only five days to appeal notification from the utility that it plans to cut down a tree. Posting notices on the City website should never be allowed as the sole method of notification, and the required timelines for notifying property owners should be lengthened.

The appeals procedure in the Ordinance is inadequate. It calls for decisions about contested cases to be made by the City Forester, *who stated in a public meeting that he had no reservations about Duke's tree cutting in Westerwood.* Appeals of his decisions go directly to the State Utilities Commission, without further local review. The City does plan to ask the Utilities Commission whether it believes the City can require an additional appeal to the City's Advisory Commission on Trees. Instead of waiting, the Council should simply enact this additional layer of protection now. There is no rationale for compromising with Duke on notification and appeal issues except that Duke does not want stronger provisions and might pursue legal action against them.

## EXHIBIT G

**COMMENTS REGARDING THE DRAFT TREE ORDINANCE BY THE T. GILBERT PEARSON AUDUBON SOCIETY**

We wish to thank Council members Nancy Vaughan, Nancy Hoffmann, Marikay Abuzuaite and Yvonne Johnson, as well as city staff for their extremely hard work to draft a tree protection ordinance that will minimize tree removal and overly severe pruning. We understand the constraints under which this document had to be drawn, and we know the Council is breaking new ground with this ordinance.

Having said that, we offer comments below that we hope will encourage City Council to make substantive revisions to the draft, even if legal staff believes that the NC Utilities Commission will overturn some of them. We also strongly support the four resolutions that the city has requested be allowed by the Commission.

- (1) We believe that the ordinance should apply to distribution lines city-wide.
- (2) We would like to see a smaller pruning box than what is proposed, perhaps 10 x 7 feet.
- (3) The pruning and tree removal standards as proposed in the Old Design Urban Plan should be part of the ordinance, not changeable with annual plan revisions, and include illustrations of possible tree work.
- (4) There should be no exceptions for "customer requested work". The ordinance should apply to Duke and all its customers.
- (5) Notification of tree work should not be only on the city's web site but include also a letter to the property owner or manager and a door hanger packet.
- (6) A more extensive appeal process ought to be considered beyond the city's Urban Forester, perhaps to some independent committee.
- (7) We support the city's request to the NC Utilities Commission to allow the items in its four resolutions to be part of the ordinance.

CERTIFICATE OF SERVICE

I hereby certify that a copy of this verified Complaint, and Motion to Order Duke Energy Carolinas, LLC to Comply with Trimming Practices Necessary to Provide Safe and Reliable Services was served by depositing in the U.S. Mail, postage prepaid, to the following Counsel for Duke Energy Carolinas, LLC:

Kendrick C. Fentress  
Associate General Counsel  
Duke Energy Carolinas, LLC  
3700 Glenwood Avenue, Suite 330  
Raleigh, NC 27612

Heather S. Smith  
Deputy General Counsel  
Duke Energy Carolinas, LLC  
550 South Tryon Street, DEC45A  
Charlotte, NC 28202

Robert W. Kaylor  
Law Office of Robert W. Kaylor, P.A.  
3700 Glenwood Avenue, Suite 330  
Raleigh, NC 27612

This the 26<sup>th</sup> day of July, 2013.

GREENSBORO CITY  
ATTORNEY'S OFFICE

By: \_\_\_\_\_  
Becky Jo Peterson-Buie  
N.C. State Bar No. 12206  
Chief Deputy City Attorney  
Attorney for Complainant  
City of Greensboro  
P.O. Box 3136  
Greensboro, NC 27402-3136  
Telephone: (336) 373-2320  
[becky.petersonbuie@greensboro-nc.gov](mailto:becky.petersonbuie@greensboro-nc.gov)





July 26, 2013

**TO: Denise Turner Roth, City Manager  
S. Mujeeb Shah-Khan, City Attorney**

**FROM: Tom Carruthers, Assistant General Counsel**

**SUBJECT: General Assembly Update**

The North Carolina Senate adjourned for this session at 1:43 am this morning. The House recessed at 1:00 am and resumed at 9:00 am this morning, finally adjourning around noon today. Several items of the City's Legislative Agenda have moved forward and are briefly summarized below. The full impact of this session's legislative efforts will take some time to appreciate, especially given the activity at the end of the session, and will be addressed in the future.

**Local Legislative Agenda**

1. *Jordan Lake.*

SB 515, Nutrient Management Standards Reform Act, passed the House yesterday and was concurred with by the Senate in the early morning hours today. The bill is enrolled and is waiting for signatures of the leadership to ratify the bill. It will then be presented to the Governor for signature. The legislation delays the implementation dates of the Jordan Lake Rules that begin after July 1, 2013 for a period of three years. It modifies the existing riparian buffers rules to allow all utilities to be placed in the stream buffers and also permits piping of perennial streams if a Corps of Engineers permit is issued. These specific modifications to the Jordan Lake Rules were requested by the City of Greensboro in its Legislative Agenda. The newly adopted budget also includes funding for an experimental device to skim the water of Jordan Lake and disrupt the growth of algae.

2. *Prohibition of Brown Bagging at Sexually Oriented Businesses & Dynacon*

SB 470, No Beer/Wine if Permit Revoked or Suspended, was received favorably by the House Committee on Commerce and Job Development, the Subcommittee on Alcoholic Beverage Control on July 22<sup>nd</sup>. It was amended on the floor of the House by motion of Representative Faircloth to include the Dynacon language to allow private convention centers, outside of redevelopment zones, to qualify for appropriate alcohol permits. The Senate concurred on this bill on July 25<sup>th</sup> and the bill was enrolled, ratified and presented to the Governor this morning. This one piece of legislation has enacted two separate items from the Legislative Agenda.

3. *Hold Harmless Resolution.*

H373, and similar legislation in HB389/SB 307 was not passed by the Legislature. This item was included in the adopted budget however and the City remains protected from revenue shortfalls that may still occur due to the earlier repeal of the intangibles tax.

4. *Electronic Notice.*

Senate Bill 287, Notice Publication by Some Local Governments, began as a local bill for Greensboro, High Point and Guilford County. It was then expanded to 14 counties including Davidson, Forsyth, Randolph, Mecklenburg, and Wake. It passed the Senate on April 22<sup>nd</sup>. The bill faced strong opposition in the House. The bill was considered on the House floor on Wednesday the 24<sup>th</sup>. There it was amended and essentially gutted. Late last night the Senate failed to concur with the House changes, and adopted a conference substitute bill restoring the original bill language and applied it to Guilford and Mecklenburg County. The bill was due to be voted on this morning by the House, but was pulled from the calendar. It remains alive for consideration in the 2014 short session.

**Pertinent Legislation of Local Interest.**

- HB92, GSC Technical Corrections 2013.

This bill contains a myriad of technical corrections to current legislation. Contained in this bill was a significant alteration of rental inspection laws just enacted by the General Assembly. Section 41 of this bill would rewrite 160A-424 (c) and limit rental inspections to only individual units with three or more verified violations rather than an entire property with three or more verified violations. This would have negatively impacted the Rental Inspection Ordinance just adopted by the City Council on July 8th. Last night the House concurred in the Senate amendments to this bill and Section 41 was deleted. Greensboro's Ordinance remains valid. This legislation was then enrolled and awaits ratifying signatures by the leadership.

- HB 773, Local Governments/Buildings/Structures/Inspections

While this bill could have impacted the City's Housing Code, it did not move out of Senate Rules. It is eligible for consideration in the 2014 short session. The attempt to impact rental inspections through HB 92 failed as noted above.

- HB74, Regulatory Reform Act of 2013

This 68 page bill contains sweeping reforms of City and State regulations. It is too voluminous to summarize in this memo. It was considered by both Chambers yesterday, amended and finally concurred with and enrolled. It is significant for "temporarily" prohibiting municipalities and counties from enacting environmental ordinances that regulate any field also regulated by state or federal law, unless the ordinance is adopted by a unanimous vote of the governing body. This prohibition will remain in effect while the Environmental Review Commission studies this issue. The Commission will report its findings and recommendations to the 2014-15 General Assembly.

- Protest Petitions Remain Alive

HB 74 did not include the proposed elimination of protest petitions that was in Senate Bill 112. SB112, Create Jobs Through Regulatory Reform, was not adopted by both Chambers and this proposal has apparently failed for this session.

TDC



# Current Public Records Requests Update July 19, 2013

Date Requested	Requestor	Subject	Status
1/16/2013	Eric Ginsburg	Socialist request Email Search - 141,954	Four batches have been completed. (4/23/2013 & 5/24/13, 6/17/13, & 6/25/13) and made available to requestor. Staff continuing to review emails.
2/8/2013	Eric Ginsburg	Palestine, Candlelight Vigil, Gaza Email Search - 120,215	Four batches have been sent to the requestor (5/10/13, 5/17/13, 6/7/13, & 6/17/13. Staff is continuing to review emails.
3/26/2013	Bill Knight	Project Homestead Emails Email Search - 5,323	Legal has begun reviewing emails. Requestor has received three batches of emails (5/23/13, 5/31/13, & 6/27/13).
5/20/2013	Billy Jones	Communication for last 90 days (follow up to 2472)	Email search was completed and Legal reviewing emails. First batch of emails was sent to the requestor on 5/31/13. Emails are being converted to PDF and will be available at the beginning of the week to complete this request.
5/30/2013	Charles Cherry	Pending GPD Lawsuits	Initial documents were provided on 6/14/13. Legal is reviewing remaining documents.
6/10/2013	George Hartzman	Renaissance / Bessemer Shopping Center Email Search - 7,973	Documents have been provided. Email search has been conducted and staff is reviewing emails.
6/18/2013	Eric Ginsburg	Noise Calls	Staff is continuing to process this request and has provided progress updates to requestor.
6/17/2013	George Hartzman	Council Small Groups	First batch of Information provided on 7/16. Second batch available on 7/19. Staff continuing to review remaining items.
7/5/2013	Roch Smith	Downtown Video	Staff has received this request and is identifying and reserving available video footage.
7/8/2013	George Hartzman	Video from Center City Park & Festival Park	Staff has received this request and is identifying and reserving available video footage.



Date Requested	Requestor	Subject	Status
7/8/2013	Eric Ginsburg	Curfew Emails Emails; 406	Staff emails have been provided. City Attorney is soliciting personal emails from Councilmember's.
7/8/2013	Tigress McDaniel	316 S Elm St.	The Legal Office is reviewing this email.
7/12/2013	Sal Leone	Economic Impact Reports	Staff is working to see if the information is available.
7/16/2013	Sal Leone	Fight Downtown - Video	Staff has received this request and is identifying and <u>reserving available video footage.</u>
7/16/2013	George Hartzman	Multi-Family Rental Properties: housing code violations	PCD Staff is working to fulfill this request.
7/18/2013	Roch Smith	Mayor Perkins' Emails and Texts	IT and City Council working to fulfill this request.
7/18/2013	Roch Smith	GPD Database Indexes	IT and GPD working to fulfill this request.
7/19/2013	Nathan Harris	City Initiated Annexation 2008-12	PCD Staff is working to fulfill this request.
7/22/2013	Sal Leone	Coliseum Fiscal Report	Staff is reviewing this request for available information.
7/22/2013	Sidney Gray	Complaints for 300 S. Elm & 435 Arlington St.	Staff is collecting the requested information.
7/22/2013	George Hartzman	ABC Board: Spring Garden Street	Staff is reviewing this request for available information.
7/23/2013	Roch Smith	Councilmembers Information Requests	Staff is reviewing this request for available information. An update will be provided next week.
7/23/2013	George Hartzman	Farmers Market Free Speech	Staff is reviewing this request for available information.
7/23/2013	Roch Smith	Farmers Market Free Speech	Staff is reviewing this request for available information.



Date Requested	Requestor	Subject	Status
7/24/2013	Roch Smith	Incumbent Candidate Requests	Staff is reviewing this request for available information.
7/24/2013	George Hartzman	Incumbent Candidate Requests	Staff is reviewing this request for available information.
7/24/2013	Ed Whitfield	Renaissance Center Group Purchase Agreement	Legal is reviewing the information for release.
7/24/2013	Billy Jones	Incumbent Candidate Requests	Staff is reviewing this request for available information.
7/25/2013	Sandy Leone	Copy of PIRT 2469	Staff is collecting the requested information which should be available on Monday.
7/25/2013	Lyla Gray-Etherson	Request for info re 7701 Airport Center Drive	Staff is reviewing this request for available information.

**Weekly Totals (7/22/13-7/26/13):**

Number of PIRTS Opened	29
Number of PIRTS Closed	31
Average Completion Time	6.58 days

**Totals Since January 1, 2013:**

Number of PIRTS Opened	460
Number of PIRTS Closed	431
Average Completion Time	7.95 days

**Public Affairs**  
**Contact Center Weekly Report**  
**Week of 7/15/13 – 7/21/13**

**Contact Center**

5101 calls answered this week

**Top 5 calls by area**

**Water Resources**

Balance Inquiry – 810

IVR/Pay by Phone – 246

New Sign Up – 198

General Info – 172

Cutoff Requests – 128

**Field Operations**

HHW/Landfill/Transfer – 151

Bulk Guidelines – 148

Mattress Go Round – 89

Repair Can/Garbage – 77

No Service/Garbage – 74

**All others**

Police/Watch Operations – 302

Overgrown Lots – 58

Privilege License – 40

HR/Employment – 40

Courts – 37

**Comments**

We received a total of 3 comments this week:

**Field Operations - 1 comment:**

- Caller wants to thank the recycle crew for coming back to get her can. She said it was very nice of them to come back and take the time to place the can on the curb, not in the street.

**Police – 2 comments:**

- Caller wanted to let the Police Department know they did a good job catching the guy that assaulted a lady on Hamel Rd. She babysits in the area. She said they were very fast and did really great. She is proud of them for catching him and she wants to thank the Police Department.
- As a double amputee who needs the disabled parking spaces and more over the typically attached ramp area to allow access to pavements, I am amazed and very concerned by what seems to be a total lack of enforcement by the city regarding the constant abuse that takes place by non-disabled members of the public. I am constantly met with cars showing no disabled placard or plate, placards that are visibly years out of date, and with parking that blocks not only the actual parking space but also the more necessary ramp access. I have asked 7 different police officers in different locations around the city why offenders are not brought to book and their replies are basically the same. "It's just a parking space. I've got other things to do more important." That there are more important tasks for our police I would agree, but when I am stuck trying to struggle to park a car or gain access to a parking space from the sidewalk, it's a pretty big deal for me then. After all, if no one really cares, why keep the law on the books? It's of little use without enforcement.

**Overall**

Calls for overgrown lots increased last week while calls about employment remained steady. Call volume was busy through the end of the week.



## 2013 SMALL GROUP MEETINGS

Small Group Meeting Dates & Times	Councilmember Attending	Person Contacted / Department	Subject	Council Notification Date
July 25, 2013 8:30 - 9:30	Councilmember Hoffmann Councilmember Wilkins	City Manager Roth	Civil Rights Museum Funding Council Travel/Spending Accounts	July 26, 2013
July 25, 2013 2:30 - 3:30	Mayor Perkins Mayor Pro Tem Johnson Councilmember Abuzuaiter Councilmember Vaughan	City Manager Roth	Civil Rights Museum Funding Council Travel/Spending Accounts	July 26, 2013
July 25, 2013 4:00 - 5:00	Councilmember Kee Councilmember Matheny	City Manager Roth	Civil Rights Museum Funding Council Travel/Spending Accounts	July 26, 2013